SB Civil Writ Petition No.5582/1996

Awtar Singh & ors Vs State of Rajasthan & ors

21.8.2006

Hon'ble Mr Justice Ashok Parihar

Mr NK Maloo - for petitioners

Mr JK Agrawal, Addl GA - for respondents

BY THE COURT:

The land in dispute was originally allotted to one Heeralal on 8.10.1973 under the provisions of the Rajasthan Colonisation Act, 1954 (hereinafter to be referred to as 'the Act'). Initially, 'Gair khatedari' rights were conferred on the above Heeralal, however, subsequently, necessary corrections were also made in the revenue record conferring khatedari rights on the above Heeralal on 13.5.1982. Subsequently, the petitioners purchased the land in question from above Heeralal through sale deeds on 22.5.1982. On a complaint been received from Tehsildar concerned, proceedings were initiated by the District Collector for resumption of the land in dispute. In the meanwhile, petitioners also submitted an application under section 13A of the Act for regularisation of their possession over the land on the basis of registered sale so made in their favour. Necessary requisite compound fee had also been deposited.

The District Collector, while rejecting the application of the petitioners as filed under section 13A

of the Act, ordered for resumption of the land vide order dated 17.11.1988. The compound fees, so deposited by the petitioners, was also ordered to be refunded. The above order of the District Collector further came to be affirmed by the Revenue Appellate Authority as also the Board of Revenue. Hence, the present writ petition.

The entries made by the Tehsildar in the revenue record on 13.5.1982 have not been disputed so far. The District Collector had passed the order on the presumption that the original allottee i.e. Heeralal had only 'Gair khatedari' rights which could not have been transferred under the Act of 1954 and, on the same grounds, the sale so made could not have been regularised under section 13A of the Act. The Revenue Appellate Authority, on the same ground, had further observed that even the transfer had been made without prior permission of the District Collector, as such, could not have been regularised. The Board of Revenue also, in a casual manner, has upheld the orders passed by the authorities below only on the ground that 'Gair khatedari' rights could not be transferred. However, for the reasons not known, none of the authorities below have considered the entries made by the Tehsildar on 13.5.1982 as also the provisions of section 13-A and 13(1) of the Act. Apart from khatedari rights having conferred on the original allot tee Heeralal prior to sale made in the present case, the regularisation could be made under section 13-A of the Act even if there has been violation of

section 13(1) of the Act. The provisions of section 13-A having inserted only for the purpose of such regularisation on submitting compound fees and other conditions, none of the authorities below have taken note of the provisions of section 13-A of the Act properly.

Accordingly, the writ petition is allowed. The impugned orders passed by the District Collector, Bundi, Revenue Appellate Authority, Kota and the Board of Revenue, Ajmer are quashed and set aside. The District Collector is now directed to decide the application of the petitioners under section 13-A of the Act afresh as per the provisions of the Act after giving an opportunity of hearing to the petitioners. While doing so, the District Collector may also verify relevant record in the present case. Till any fresh orders are passed by the District Collector, petitioners may not be dispossessed from the land in dispute, if they are still in possession of the same.

(Ashok Parihar)J.

bnsharma